

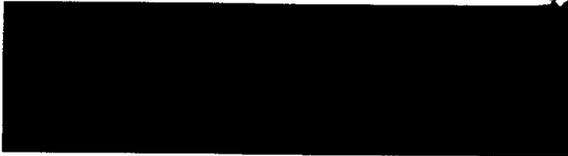
U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
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U.S. DEPARTMENT OF HOMELAND SECURITY



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MAY 27 2005

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:
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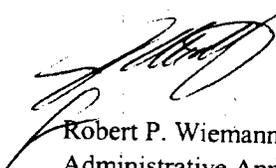
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or

- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 3, 1999, through August 20, 1999. The applicant filed the instant Form I-821 on August 19, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On October 7, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, submitted documentation relating to her residence and physical presence in the United States. The applicant also submitted a letter stating that she had submitted a TPS application during the initial registration period, by mistake to the district office in Newark, New Jersey, instead of to the VSC in Burlington, Vermont. She stated that the application had been returned to her by the Newark office and that she then resubmitted it to the VSC on August 23, 1999.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on December 10, 2003.

On appeal, the applicant again states that she had submitted a TPS application during the initial registration period, but that it had been returned to her as having been filed with the wrong office. In support of her appeal, the applicant submits incomplete photocopies of two different TPS applications. One of the applications indicates that it was received at the Newark District Office on August 18, 1999, without a proper fee attached. The other indicates that it was received at the VSC on August 29, 1999, and again on May 24, 2000, without the proper fee attached.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for [TPS] during the registration period designated under section 244(b) of the Act."

A review of the record reveals that the applicant had initially forwarded an incomplete TPS application to the Newark, New Jersey, District Office on August 18, 1999; however, the application was rejected as improperly filed. The applicant then forwarded another incomplete TPS application to the VSC on August 29, 1999, and again on May 24, 2000. Both of these incomplete applications were also rejected. The applicant's first complete Form I-821 was accepted for processing, with the appropriate fee, at the VSC on May 31, 2002, after the initial registration period had expired. That application was denied on June 9, 2003.

The applicant has failed to submit evidence that she properly registered for TPS during the initial registration period. The applicant has also failed to submit evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.